

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

In the matter of

XXXXX

Petitioner

File No. 100386-001-SF

v

Blue Cross Blue Shield of Michigan  
Respondent

/

**Issued and entered  
this 22nd day of December 2008  
by Ken Ross  
Commissioner**

**ORDER**

**I  
PROCEDURAL BACKGROUND**

On September 25, 2008, XXXXX, on behalf of her minor daughter XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under Public Act No. 495 of 2006 (Act 495), MCL 550.1951 *et seq.* The Commissioner reviewed the request and accepted it on October 2, 2008.

Under Section 2(2) of Act 495, MCL 550.1952(2), the Commissioner conducts this external review as though the Petitioner was a covered person under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Commissioner notified Blue Cross and Blue Shield of Michigan (BCBSM) of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on October 13, 2008.

The Petitioner is enrolled for health care coverage through the XXXXX School District, a self-funded local government group. BCBSM administers the plan. The issue in this external

review can be decided by a contractual analysis. The contracts here are the Community Blue Group Benefit Certificate (medical certificate) and the Group Dental Care Benefit Certificate Custom Series K 1000 (dental certificate), the contracts that define the Petitioner's health and dental benefits. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

## **II FACTUAL BACKGROUND**

The Petitioner, 16 years old, has a long history of malocclusion of her teeth that produced temporomandibular joint (TMJ) dysfunction and pain and intermittent disc displacement. Her dentist indicated that orthodontic services were required before she could have jaw surgery. The charge for the orthodontia was \$3,500.00. BCBSM paid \$690.00 under her dental certificate but has denied coverage under her medical care coverage.

The Petitioner appealed BCBSM's decision to deny coverage under the medical certificate. BCBSM held a managerial-level conference on August 28, 2008, and issued a final adverse determination dated September 5, 2008.

## **III ISSUE**

Is BCBSM required to cover any additional amount for the Petitioner's orthodontic services?

## **IV ANALYSIS**

### **Petitioner's Argument**

The Petitioner's oral surgeon indicated that successful correction of the malocclusion that was induced by a skeletal imbalance could only be accomplished after orthodontic alignment of the dentition. The Petitioner believes that BCBSM should consider the orthodontic services she received as part of her medical coverage because it was required before she could have jaw surgery. The oral surgeon recommended that the pre-surgical orthodontic component of the Petitioner's treatment be covered under her medical insurance.

The Petitioner argues that BCBSM should pay for her orthodontic treatment under her medical care certificate because it was part of her TMJ treatment plan.

### BCBSM's Argument

BCBSM cites provisions in the medical and dental certificate as the basis for its decision. Section 4 of medical certificate, "Coverage for Physician and Other Professional Provider Services," has this language (page 4.23):

**The following services are not payable:**

\* \* \*

- Dental care (except to treat accidental injuries or multiple extractions requiring hospitalization)

"Dental care" is defined in Section 7 of the medical certificate (page 7.6) as:

Care given to diagnose, treat, restore, fill, remove or replace teeth or the structures supporting the teeth, including changing the bite or position of the teeth. [Emphasis added]

In the dental certificate (pages 8-9) it says in pertinent part:

### **B. Covered Dental services**

Under this certificate, subject to the maximum benefit limit, BCBSM will pay the stated percentage of the reasonable and customary charge of a dentist for certain dental services if benefits are available to you. The following is a list of services for which benefits may be available to you. These services are described later in this section:

\* \* \*

#### **9. Orthodontic services**

BCBSM says that the Petitioner's medical certificate clearly provides that dental care ("except to treat accidental injuries or multiple extractions requiring hospitalization") is not payable. Thus, since the Petitioner's case pertains to orthodontic service ("changing the bite or position of the teeth") and the treatment was not the result of an accidental injury or multiple extractions requiring hospitalization, the service in question is not a benefit under the certificate.

Orthodontic services are payable under the Petitioner's dental certificate. However, she has a maximum lifetime benefit of \$750.00 for orthodontics. BCBSM paid \$690.00 for her pre-surgical orthodontic treatment under the dental certificate because \$60.00 had been used previously.

BCBSM argues that the it paid the correct amount for the Petitioner's orthodontics as required by the certificate language.

Commissioner's Review

The Petitioner argues that her orthodontic services should be covered under the medical certificate. However, that certificate is primarily for medical and surgical care; it provides only very limited coverage for dental treatment. Orthodontic care could only be covered under the medical certificate if it was required because of an accidental injury. Since the Petitioner's need for orthodontic services did not result from an accidental injury, the Commissioner concludes that they are not a benefit under the medical certificate.

The Petitioner's orthodontic services are a covered benefit under the dental certificate. However, by paying \$690.00 BCBSM met its obligation to pay a \$750.00 lifetime maximum for orthodontics.

The Commissioner finds that BCBSM has correctly covered the Petitioner's orthodontic care under the terms and conditions of both certificates and is not required to pay any additional amount.

**V  
ORDER**

BCBSM's final adverse determination of September 5, 2008, is upheld. BCBSM is not required to pay any additional amount for the Petitioner's orthodontic care.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.